

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL T. MCLAUGHLIN,

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Plaintiff,
vs.

Case No.: 2:18-cv-01562-GMN-EJY

NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

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Defendant.

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ORDER

Pending before the Court is the Motion to Dismiss, or in the alternative, Motion for Summary Judgment, (ECF No. 36), regarding the First Amended Complaint, (ECF No. 27), by Defendants Nethanjah Childers, James Cox, Dwayne Deal, Frank Dreesen, James Enda, Nancy Flores, Jo Gentry, Jerry Howell, Monique Hubbard-Pickett, Howard Skolnik, Jim Gibbons (collectively, “Defendants”). Plaintiff Michael McLaughlin (“Plaintiff”) did not file a response.

Also pending before the Court are the Motion to Dismiss and Motion for Summary Judgment, (ECF Nos. 18–19), regarding the Complaint, (ECF No. 5), filed by Defendants Childers, Dzurenda, and Hubbard-Pickett. Plaintiff did not file a response, but Childers, Dzurenda, and Hubbard-Pickett filed Replies, (ECF Nos. 24–25).

This case arises from Plaintiff's allegations regarding Defendants' refusal to apply Plaintiff's good time credits toward his state court sentence. (*See generally* Compl., ECF No. 5). Plaintiff's Complaint asserts various claims against Defendants for injunctive relief and damages. (*Id.*). On January 21, 2020, Plaintiff moved to amend the Complaint, (*See* Mot. Amend, ECF No. 10). While the Motion to Amend was pending, Defendants Childers, Dzurenda, and Hubbard-Pickett moved to dismiss the Complaint, or for summary judgment. (*See* Mot. Dismiss, ECF No. 18); (Mot. Summ. J., ECF No. 19). Thereafter, the Court granted

1 in part and denied in part Plaintiff's Motion to Amend, dismissing Plaintiff's official capacity,
2 injunctive relief, and Eighth Amendment claims, but otherwise allowing leave to amend. (*See*
3 Order and R&R, ECF No. 26); (Order Adopting R&R, ECF No. 32). The Court docketed
4 Plaintiff's proposed First Amended Complaint following the Magistrate Judge's Order and
5 R&R regarding the Motion to Amend. (*See* Am. Compl., ECF No. 27).

6 Defendants now move to dismiss the FAC, or for summary judgment. (*See* Mot.
7 Dismiss, or, in the Alternative, Mot. Summ. J., ECF No. 36). Plaintiff did not file a response to
8 the Motion. Under this Court's Local Rule 7-2(d), "[t]he failure of an opposing party to file
9 points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a
10 motion for attorney's fees, constitutes a consent to the granting of the motion." Given that
11 Plaintiff has not opposed the Motion, the Court finds that Plaintiff has consented to granting
12 dismissal of the Amended Complaint.

13 Accordingly,

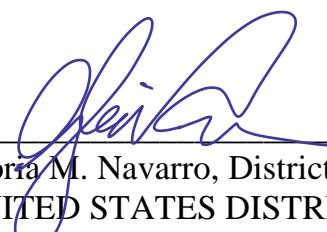
14 **IT IS HEREBY ORDERED** that Defendants' unopposed Motion to Dismiss, (ECF No.
15 36), is **GRANTED**. Plaintiff's Amended Complaint is **DISMISSED without prejudice**.

16 **IT IS FURTHER ORDERED** that the Motion to Dismiss, (ECF No. 18), and Motion
17 for Summary Judgment, (ECF No. 19), are **DENIED as moot**.

18 The Clerk of Court shall close the case and enter judgment accordingly.

19 Dated this 10 day of December, 2020.

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Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT